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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,825	11/20/2003	Thomas Dale Chase	20714-0028	8575

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EXAMINER

PHAM, MINH CHAU THI

ART UNIT PAPER NUMBER

1724

DATE MAILED: 12/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/717,825

Applicant(s)

CHASE, THOMAS DALE

Examiner

Minh-Chau T. Pham

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-10, 14 and 17-19 are again rejected under 35 U.S.C. 102(b) as being anticipated by Osendorf (4,963,171).

Osendorf teaches a filter rack (18) comprising a plurality of longitudinal members (34) having flanges adapted to receive and retain a filter (16), and a plurality of connectors (46) adapted for insertion into corresponding channels (44) of the longitudinal member for connecting each longitudinal member to at least one other longitudinal member (see details of Fig. 4, col. 4, lines 10-31). Osendorf further teaches the longitudinal members comprised of a corrosion resistant rigid material such as aluminum (col. 3, lines 64-66), and the connector (46) being a L-shaped flat connector including at least one fastener (see 51 in Figs. 5 & 6) which is clamp. Osendorf also teaches a method of assembling a filter rack comprising the steps of providing a plurality of longitudinal members (34), each longitudinal member (34) having flanges adapted to receive and retain a filter (16) and having channels (44) adapted to receive and retain at least one connector (46), providing a plurality of L-shaped connectors (46), connecting each longitudinal member to at least one other longitudinal member using the plurality of connectors so as to form a rectangular frame (see Fig. 4).

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 11-13, 15, 16 and 20 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Osendorf (4,963,171), in view of Pick (5,059,218).

Claims 11-13, 15, 16 and 20 call for the filter rack comprising a door that is attached to the at least one longitudinal member by removable attachment means. Pick discloses a filter rack (34) comprising a door (50) that is attached to the at least one longitudinal member (40) by removable attachment means (52) (see 50 in Figs. 2B & 2C, col. 4, line 64 through col. 5, line 27). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a door as taught by Pick on the filter rack of Osendorf since the door would provide access and help facilitate the assembly and disassembly of the filter element in and off the filter rack. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

### ***Response to Amendment***

Applicant's arguments filed on October 7, 2005 have been fully considered but they are not persuasive.

Applicant argues that the cited reference Osendorf "does not teach a filter rack used to retain removable filter in an air handling system" and "the invention of Osendorf cannot utilize a removable filter element". The Examiner respectfully points out that this limitation "removable filter" is nowhere found in any language of the claims. The

language of the claims simply calls for "a filter rack to retain a filter" and the Osendorf reference clearly shows a filter rack (18) retaining a filter (16) as claimed.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Regarding to the limitation "adapted for mounting into an air handling system", it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ 2d 1647 (1987).


**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau T. Pham whose telephone number is (571) 272-1163. The examiner can normally be reached on Mon/Tues/Thur/Fri 7:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Minh-Chau Pham**  
**Patent Examiner**  
**Art Unit : 1724**  
**December 2, 2005**